

PETITIONER:
MOST REV. P.M.A.METROPOLITAN AND ORS. ETC.

Vs.

RESPONDENT:
MORAN MAR MARTHOMA MATHEWS & ANR. ETC.

DATE OF JUDGMENT: 05/02/1997

BENCH:
B.P. JEEVAN REDDY, SUHAS C. SEN, S.B. MAJMUDAR

ACT:

HEADNOTE:

JUDGMENT:
THE 5TH DAY OF FEBRUARY, 1997

Present:

Hon'ble Mr. Justice B.P.Jeevan Reddy
Hon'ble Mr. Justice Suhas C.Sen
Hon'ble Mr. Justice S.B. Majumdar

C.S. 'Vaidyanathan, Harish N.Salve, F.S.Nariman, Raju Ramachandran and T.L.V. Iyer, Sr. Advs., P.K. Manohar, roy Abraham, Ms. Baby Krishnan, E.M.S. Anam, Ms. Lily Thomas, Ms. K. V. Vijayakumar, P.J. Philips K.V. Mohan, T.G. N. Nair, Ranjit Thomas, Sudarsh Menon, and S. Balakrishnan, Advs. with them for the appearing parties.

O R D E R

The following order of the Court was delivered:

These matters are posted before us for orders with respect to the drafting of the decree pursuant to this Court's judgment delivered on January 20, 1995. By order dated March 25, 1996, we had requested Ms. Manju Goel, Registrar (Judicial - II) to prepare the decree in the light of the judgment aforesaid, after notice to both the parties. The learned Registrar had drafted a decree to which both parties filed objections. In view of certain contentions raised by the parties, the matter was remitted to the said Registrar for revising the draft of the decree. She has accordingly prepared a revised draft decree to which again both parties have filed objections. We have heard the counsel for both the parties and direct that the decree shall be prepared in following manner.

In the first instance, the decree shall set out the ten clauses found in Para 142 of the Judgment.

Then it shall set out the following portions from Para 141 of the Judgment. The first portion in Para 141 starts with the words, "We are, however, of the opinion that in this suit no declaration can be granted affecting the rights of Parish churches" and ends with the words "any title to or control over the properties held by the Parish churches". The second portion in Para 141 begins with the words, "In the state of such a pleading, the only observation" and ends with the words "insofar as the said Constitution provides for the same".

The decree shall then set out Para 150 which deals with

Kananaya church.

The decree shall then say that the decree passed by the High Court (decree under appeal) shall stand modified to the extent indicated above.

PART II

In Part II of the order dated March 25, 1996, the following sentence shall be inserted before the last sentence: "The above direction is subject to the condition that any and every person claiming to hold any office or post in this church shall be bound by and shall swear allegiance to the 1934 Constitution".

PART III

In Part I of the order dated March 25, 1996, we had directed that Articles 71 and 46, as drafted by us shall stand substituted in the place of the existing Articles 71 and 46 in the 1934 Constitution with effect from the date of the said order. In Articles 71 and 46, which were directed to be so substituted, an error has crept in. Instead of mentioning "members of the Parish Assembly", the word "families" is used. We, therefore, direct that wherever the word "family" or "families" occur in the said two Articles, as drafted by us, they shall be substituted by the words "member" or "members", as the case may be. It is made clear that when we speak of the "members" in the said articles, we refer to members as contemplated by and as mentioned in clause (7) of the 1934 Constitution (which deals with Parish church and Parish Assembly).

The first Proviso in Article 71 is deleted.

PART IV

In view of the aforementioned controversies, it is submitted by the counsel for the parties, no elections could so far be held as contemplated and directed by the Judgment of this Court. In Part I of the order dated March 25, 1996, it was directed by this Court that the election of members of the Association and the Diocesan Assemblies shall take place within three months therefrom on the basis of the amended/substituted Articles 71 and 46. The time for conducting the said elections is extended upto and inclusive of April 30, 1997.

Ordered accordingly.